Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JUN 18 1998

In the Matter of	)	
	)	
Petition for Interim Waiver	)	
of Section 36.2(a)(3) of the	)	CC Docket 80-286
Commission's Rules	)	DA 98-909
	)	
Filed By:	)	
the National Exchange	)	
Carrier Association, Inc.	)	

Reply Comments of General Communication, Inc.

Pursuant to the Commission's Public Notice, General Communication, Inc. (GCI) hereby submits reply comments in support of those commenters opposing the above referenced waiver request filed by the National Exchange Carrier Association, Inc. (NECA) on May 8, 1998.

In its request, NECA requests that the Commission waive Section 36.2(a)(3) which requires telephone companies to determine separations factors using "actual use" measurements based on traffic studies "during a representative period for all traffic." NECA asks that the Commission allow NECA members to freeze the traffic factors. NECA points out that Internet traffic is increasing and that the Commission is addressing issues related to Internet traffic in the separations joint board proceeding.

The Commission should deny the waiver request.[1] Internet service providers purchase business lines from a local tariff. Under the separations rules, the traffic, costs and revenues must

[1]NECA does not identify the impact for NECA participant companies.

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follow the jurisdiction where the service is tariffed.

The separations manual is very specific. Pursuant to the glossary of terms under Separations-Part 36, separations is defined as "the process by which telecommunication property costs, revenues, expenses, taxes, and reserves are apportioned among the operations" and operations is defined as "the term denoting the general classifications of services rendered to the public for which separate tariffs are filed, namely exchange, state toll and interstate toll." Therefore, the "costs, revenues, expenses, taxes and reserves" must follow the appropriate tariff. The business line is sold under the local tariff. It is not tariffed at the FCC. Under separations, the revenues, costs, minutes must fall in the same place. The separations manual further states that "the fundamental basis on which separations are made is the use of telecommunications plant in each of the operations"[2] and that the costs, are apportioned among the operations and "amounts of revenues and expenses assigned each of the operations" (i.e., each of the tariffs) "are identified as to account classification."[3] A freeze of the factors will not accurately reflect the current use of the plant pursuant to the separations manual and would force an overallocation of costs to the interstate jurisdiction.

The Commission has further stated that "Under our present rules, enhanced service providers are treated as end users for

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[2]47 CFR Section 36.1(c).

[3]47 CFR Section 36.1(g).

purposes of applying access charges. See 47 C.F.R. section 69(m)."[4] Further, "enhanced service providers are treated as end users and thus may use local business lines for access for which they pay local business rates and subscriber charges. To the extent they purchase special access lines, they also pay the special access surcharge under the same conditions as those applicable to end users. See supra note 8."[5]

The Commission has recently affirmed this policy in the Access Charge Reform proceeding.

> Beginning with the Computer II proceeding in the 1970s, we have distinguished between enhanced and basic communications services. the category of enhanced services, which include access to the Internet . . .
>
> As a result of these decisions, ESPs may purchase services from incumbent LECs under the same intrastate tariffs available to end users, by paying business line rates and the appropriate subscriber line charge, rather than interstate access rates. Those business line rates are significantly lower than the equivalent interstate access charge, in part because of separations allocations and the access charge per-minute rate structure, and in part because the business lines that ESPs now purchase generally do not include usage-sensitive charge for local calls.[6]

For the reasons stated herein, the Commission should deny

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[4]Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers (ESP Exemption Order), 3 FCC Rcd 2631, 2635 (footnote 8) (1988).

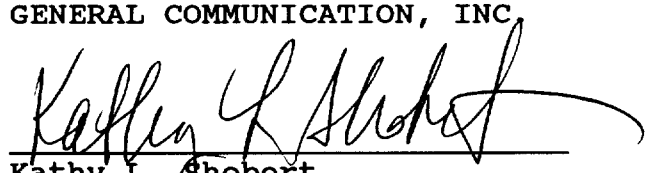
[5] Id at 2637 (footnote 53) (1988).

[6]Access Charge Reform, 11 FCC Rcd 21354, 21478-21480 (1996).

NECA's petition for waiver of Section 36.2(a)(3) of the Commission's rules.

Respectfully submitted,

GENERAL COMMUNICATION, INC.



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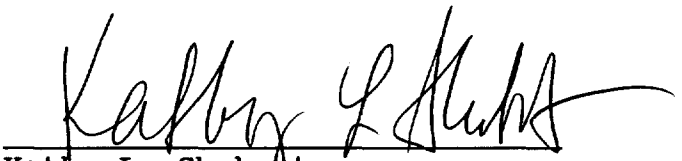
June 18, 1998

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed this 18th day of June, 1998.



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CERTIFICATE OF SERVICE

I, Kathy L. Shobert, do hereby certify that on this 18th day of June, 1998 a copy of the foregoing was sent by first class mail, postage prepaid, to the parties listed below.

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